

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
) Case No. 01-01139 (JKF)
W.R. GRACE & CO., et al.,) (Jointly Administered)
)
Debtors.) **Related D.I. No. 23021**

**OBJECTION OF MARYLAND CASUALTY COMPANY TO
BNSF RAILWAY COMPANY'S INITIAL DEPOSITION DESIGNATIONS
OF TESTIMONY OF KAREN O. MCKEE**

Maryland Casualty Company (“MCC”), by and through its undersigned counsel, hereby objects to the *BNSF Railway Company's Initial Deposition Designations of Testimony of Karen O. McKee* [D.I. No. 23021] (“BNSF McKee Designations”) as follows:

1. MCC objects to the testimony designated by the BNSF McKee Designations based upon any and all objections that were raised at the deposition to the respective question or statement that gave rise to the designated response.

2. Because Ms. McKee will be available to testify at the Phase II Plan Confirmation Hearing, MCC objects to the BNSF McKee Designations as inadmissible hearsay under Rules 402 and 403 of the Federal Rules of Evidence.

3. MCC objects to all portions of the BNSF McKee Designations that are inconsistent with MCC’s interests on the basis that such testimony designated by the BNSF McKee Designations:

- (a) lacks foundation;
- (b) is irrelevant, immaterial and/or unnecessary and is thus inadmissible under Rules 402 and 403 of the Federal Rules of Evidence;
- (c) is hearsay and is thus inadmissible under Rule 802 of the Federal Rules of Evidence;
- (d) constitutes opinion testimony by a lay witness and is thus inadmissible under

Rule 701 of the Federal Rules of Evidence;

- (e) is not the best evidence.

4. MCC reserves its right to object to the BNSF McKee Designations on any grounds based upon the context and/or purported purpose of the testimony as offered.

5. This Objection is submitted without waiver of any of MCC's rights, including its right to raise additional objections to deposition designations or other evidence introduced prior to or during the Phase II Plan Confirmation Hearing.

6. MCC hereby joins any other objections to BNSF McKee Designations filed by other parties, to the extent that such objections are consistent with MCC's interests.

Dated: September 3, 2009

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/s/ Jeffrey C. Wisler

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